

VZCZCXRO8334
OO RUEHDBU RUEHFL RUEHKW RUEHLA RUEHROV RUEHSR
DE RUEHRL #0229/01 0361745
ZNY CCCCC ZZH
O 051745Z FEB 07
FM AMEMBASSY BERLIN
TO RUEHC/SECSTATE WASHDC IMMEDIATE 6919
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY
RUCNFRG/FRG COLLECTIVE PRIORITY
RUEFHLC/HOMELAND SECURITY CENTER WASHINGTON DC PRIORITY
RUEAHLA/DEPT OF HOMELAND SECURITY WASHDC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 03 BERLIN 000229

SIPDIS

SIPDIS

E.O. 12958: DECL: 02/05/2017
TAGS: [KJUS](#) [KHLS](#) [PTER](#) [CVIS](#) [PREL](#) [PGOV](#) [GM](#)
SUBJECT: DHS SECRETARY CHERTOFF'S DISCUSSIONS IN BERLIN ON
TERRORISM AND DATA-SHARING

Classified By: Economic Minister-Counselor Robert F. Cekuta for Reasons
1.4 (b) and (d)

¶1. (C) Summary: DHS Secretary Michael Chertoff, in January 26 meetings with German Interior Minister Schaeuble, Justice Minister Zypries and Chancellery Head de Maiziere, reiterated USG interest in enhanced counter-terrorism information-sharing. The German side agreed that data-privacy concerns must take into account the need to exchange information in order to combat terrorism effectively, and signaled a desire for real progress during Germany's EU and G-8 presidencies. Secretary Chertoff also met with Scaeuoble and Italian Interior Minister Giuliano Amato to discuss possibilities for adapting international legal principles and concepts to meet the challenges posed by modern-day international terrorism. End Summary.

Interior Minister Schaeuble

¶2. (C) Secretary Chertoff's discussion with Interior Minister Schaeuble focused on counter-terrorism data-exchange (including Passenger Name Records) and the Visa Waiver Program. Schaeuble said he wants to do all he can to increase law enforcement and counter-terrorism cooperation with the U.S. A key question, said Schaeuble, is how to adapt the existing mechanisms of the Pruem Treaty to improve our bilateral cooperation. Schaeuble said he now understands that prevention -- i.e., border controls -- is as important for the USG as prosecution, and that enhanced sharing of biometric and biographic data is instrumental to this goal. He emphasized his desire to move our bilateral talks forward with the goal of obtaining an agreement with the U.S. on data-sharing before the end of the German Presidency.

¶3. (C) Secretary Chertoff welcomed Schaeuble's resolve to move forward on information exchanges. He cautioned, however, that the types of data we most require -- fingerprints, border-crossing data -- do not necessarily lend themselves to a "Pruem-like" framework. Secretary Chertoff suggested we begin with the subset of data on known or suspected terrorists. He assured Schaeuble that data flows should be reciprocal. Schaeuble believed progress could be made on more robust finger-print and other biometric database sharing, but noted German (and European) concerns about (1) the length of time we stored information, and (2) the possibility that the U.S. would use the data collected for purposes other than the original reason for collection. He noted in Germany data collected for a specific purpose could only be used for a different purpose after judicial review. Schaeuble said the German public is very wary of U.S. intentions and practices in this regard, especially with respect to data collected pursuant to the PNR program.

¶4. (C) Secretary Chertoff assured Schaeuble that the U.S. is prepared to seek solutions to European data-privacy concerns, but reiterated the importance the U.S. attaches to information-exchange. He also reminded Schaeuble that a positive fingerprint hit is not in itself an indication of guilt, but rather a trigger for closer scrutiny. On the issue of retaining data, Secretary Chertoff said our practice is to hold on to data for possible use as evidence in subsequent criminal proceedings.

¶5. (C) Schaeuble and Secretary Chertoff also discussed the Visa Waiver Program (VWP) with Schaeuble citing increasing unease on the part of EU countries that are not eligible for the program. Secretary Chertoff cited the President's goal of facilitating entry into the U.S., but at the same time noted strong Congressional and other concerns about the program. It would be a disaster for the program, he said, if someone came into the U.S. from western Europe without a visa and engaged in a terrorist act. Secretary Chertoff nonetheless underscored his desire to see real progress on the VWP during the German EU Presidency. The USG goal is to obtain the necessary information with as little disruption as possible of international air travel.

¶6. (C) On PNR, Secretary Chertoff stressed the utility of information collected by the USG, noting it has assisted greatly in our counter-terrorism efforts. Schaeuble pointed to concerns among the German public about someone being included on USG watch lists without any recourse to finding out the reason for inclusion. He hoped a new PNR agreement would be negotiated soon. Secretary Chertoff noted there is a PNR "redress procedure;" individuals can request to see their PNR data, although they do not have access to the USG analysis/conclusions pertaining to the data. He also said we

BERLIN 00000229 002 OF 003

could do more to clarify the narrow, specific purposes for which data can be used.

Trilateral Meeting

¶7. (C) The separate trilateral meeting with Schaeuble and Italian Interior Minister Amato (in his capacity as G-6 chairman) focused on how international legal principles could be adapted to meet the challenges posed by today's international terrorism, an issue that Amato had earlier raised with Secretary Chertoff in Washington. Schaeuble began by noting that the struggle against international terrorism had blurred the distinctions between national and international laws as well as between war and peace. He posited that harmonizing international legal norms and standards would not only increase the effectiveness of our cooperative efforts, but would also help improve our image with our respective publics.

¶8. (C) Amato suggested developing common rules on selected issues would reduce the gap between the U.S. and Europe and would help allay the European public's concerns about U.S. intentions and practices. He proposed expert-level discussions aimed at harmonizing criteria to define terrorist conduct that is subject to criminal penalties, as opposed to conduct that is dealt with "administratively," i.e., through deportations, surveillance or "monitoring" by law enforcement officials, etc. The group would also look at ways to make the public aware of these discussions and their results. Amato suggested that the G-6 Group in the EU could provide an initial forum for discussions with the U.S.

¶9. (C) Secretary Chertoff expressed a willingness to consider European proposals and to continue the discussion. He cautioned, however, that some elements might be harder to agree upon, given the public skepticism in the U.S. about the effectiveness of international legal measures and the

perception that international law had been "highjacked" by those who want to score political points against the U.S. At the same time, he agreed the U.S. must not be seen as being "hostile" to international law. He therefore suggested an approach that would focus on specific, concrete areas where we might find common ground, rather than on overarching theoretical discussions. Secretary Chertoff also noted he would have to vet the ideas with Attorney General Gonzalez and others in the Washington interagency community. He agreed to a preliminary follow-up meeting with Germany and Italy that was tentatively scheduled for March 19.

Justice Minister Zypries

¶10. (C) In his meeting with Justice Minister Zypries, Secretary Chertoff raised PNR and noted by buying a ticket to

SIPDIS

the U.S., a passenger effectively is agreeing to provide certain information required to enter the country. Secretary Chertoff said he has a better appreciation of EU concerns about data privacy, but thinks there is a way to meet them. Zypries noted the irony of Germans who will give credit card or other information to a store, but not to a government. She said data privacy is a concern throughout Europe, not just Germany. Zypries said we might be able to alleviate some of the pressures by limiting how long some of the data are stored. Secretary Chertoff also made his points on the visa waiver program.

Chancellery Head de Malziere

¶11. (C) Secretary Chertoff's meeting with Chancellery Head de Maiziere covered a number of topics, with de Maiziere asking about U.S. counter-terrorism practices as well as U.S. procedures for monitoring Islamic communities. Secretary Chertoff reiterated U.S. interest in moving forward on PNR, and assured De Maziere that the USG takes data-protection concerns seriously. Our goal is more effective screening in order to make air travel safer for all and to keep terrorists out of the U.S. De Maiziere agreed with the need for closer bilateral and international counter-terrorism cooperation, noting that the foiled UK terrorist plots had raised awareness in Germany of the threat posed by international terrorism. He said the German Government is drawing up a terrorist data base and is interested in cooperating with the U.S.; citing the inherent tensions between the need for confidentiality and the desire to ensure that law enforcement

SIPDIS

BERLIN 00000229 003 OF 003

officials obtain access to needed data, de Maiziere said he would be interested in how the U.S has dealt with this dilemma. On the issue of data-privacy, he observed that -- up to now -- the average German citizen has been far more willing to share voluntarily personal and financial data with a commercial enterprise than with the government. The increasing public perception that the threat of terrorism is real and that a terrorist attack can occur in Germany may slowly change these attitudes.

¶12. (C) De Maiziere also suggested greater information-sharing regarding our respective plans to protect critical infrastructure in the event of a terrorist attack or natural disaster. He noted Germany maintains a database that includes all elements of "critical infrastructure," and proposed a greater exchange of data. Such information-sharing would focus on (1) how each determines what qualifies as a "critical infrastructure" is, and (2) the kinds of technical and other data we collect/maintain. Secretary Chertoff replied that the U.S. maintains a similar

SIPDIS

database, the "National Asset Database," and expressed a willingness to explore ways to share information.

¶13. (U) This message was cleared by the DHS delegation subsequent to their departure from Berlin.

TIMKEN JR